IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

WA.No. 1333 of 2007()

AGAINST THE JUDGEMENT IN WPC.13117/2007 Dated 13/04/2007
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APPELLANT: PETITIONER:

K. RAMESH, S/O.KUNIYIL SREEDHARAN,
AGED 46 YEARS, PROPRIETOR, KENWOOD SELLERS,
MOORIYAD, KOZHIKODE, IRINGALLUR AMSOM, DESOM,
KOZHIKODE TALUK.

BY ADV. SRI.R.SUDHISH

RESPONDENTS: RESPONDENTS:
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1. THE DEPUTY COMMISSIONER (APPEALS),
KOZHIKODE.

2. THE SALES TAX OFFICER,
VTH CIRCLE, SALES TAX COMPLEX,NEAR PASSPORT OFFICE
KALATHINKUNNU AMSOM, DESOM, KOZHIKODE.

3. THE DEPUTY TAHSILDAR (REVENUE RECOVERY),
TALUK OFFICE, PUTHIYARA.

4. THE VILLAGE OFFICER,
OLAVANNA VILLAGE, KOZHIKODE.

BY SPECIAL GOVT.PLEADER (TAXES) MR.V.V.ASOKAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.1333 of 2007

Dated, this the 8th day of June, 2007

JUDGMENT

H.L.Dattu, C.J.

This appeal is filed against the orders passed by the learned Single Judge in W.P.(C) No.13117 of 2007 dated 13th April, 2007. By the impugned order, the learned Single Judge has modified the interim orders granted by the first appellate authority and has given some instalment facility to the petitioner.

2. Being aggrieved by the order of assessment passed by the assessing authority, the assessee has filed an appeal before the first appellate authority. Along with the appeal he has also filed an application for stay of the revenue recovery proceedings.

3. Since that stay petition had not been disposed of within a reasonable time, the petitioner had approached this Court on an earlier occasion. This Court had directed the appellate authority to dispose of the stay petition.

4. After the disposal of the said writ petition, the appellate authority has considered the stay petition filed by the petitioner and has directed him to pay 50% of the amount demanded, and for the balance amount, it has directed the petitioner to offer security as provided under the Rules. Aggrieved by the said interim order passed by the appellate authority, the petitioner was before this Court in W.P.(C) No.13117 of 2007. The learned Single Judge has not interfered with the interim order passed by the first appellate authority. However, the learned Single Judge has granted some time to the petitioner to pay the amount as directed by the first appellate authority.

5. Aggrieved by the said order, the petitioner is before us in this appeal.

6. The learned counsel for the appellant would submit that the learned Single Judge ought to have interfered with the orders passed by the first appellate authority on the stay application filed by the petitioner. Since that has not been done, according to the learned counsel, the order passed by the learned Single judge is not only arbitrary, but also illegal.

7. In our view, the submission made by the learned counsel for the appellant is devoid of merits. Normally this Court would not interfere with the interim orders passed by the appellate authority unless such orders are wholly arbitrary and contrary to the statutory provisions. Keeping all these aspects of the matter in view, the learned Single Judge has rightly rejected the prayer made in the writ petition. But taking a very sympathetic view in the matter, the learned Single Judge has directed the appellant to pay 50% of the amount ordered to be paid by the first appellate authority in two instalments . It is stated that the first instalment has already been paid by the appellant on 30.4.2007 and the next instalment he could not pay within the time granted by this Court. Therefore, a request is made to pay off the balance amount of 25% in one month's time from today.

8. In our opinion, the request of the learned counsel for the appellant is reasonable and, therefore, if it is granted no injustice would be caused to the revenue. Accordingly the following:

Order

i) The writ appeal is rejected.

ii) However, the appellant is permitted to deposit the 25% of the amount supposed to have been paid by the appellant on or before 30.5.2007, on or

before 30.7.2007.

iii) We make it clear that the respondents shall not collect collection charges when they receive the balance of 25% amount from the appellant.

With these observations and directions the writ appeal is disposed of.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns/DK